

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
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**W8a**

Permit Expiration:	3/17/99
Extension Request Filed:	2/24/99
Staff:	S. Monowitz
Staff report:	8/25/99
Hearing date:	9/15/99

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**STAFF REPORT: PERMIT EXTENSION REQUEST**

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**Application number:** A-3-SNC- 94-008-E2

**Applicant:** Bell Trust      Agent: Michael Van Zandt

**Project location:** 500 Tioga Avenue, west of Highway One, Sand City, Monterey County (APN 011-012-05)

**Project description:** Commercial health resort/hotel with 136 guest rooms, 135 seat restaurant and lounge, 4000 square feet of conference and retail space, and 234 car subterranean parking garage. The project also includes the extension of Sand Dunes Drive, public access improvements, restoration of an on-site sand dune, and site grading.

**File documents:** Sand City certified Local Coastal Program; Coastal Development Permit A-3-SNC-94-08; Coastal Development Permit Extension A-3-SNC-94-08-E1; Final EIR for the Sterling Project (City of Sand City, July 1993); Staff Report for Coastal Development Permit A-3-SNC-98-114 (SNG Development Company) dated 4/22/99; Draft EIR for the Fort Ord Reuse Plan, Fort Ord Reuse Authority, May 1996; Draft SEIS for Fort Ord Disposal and Reuse, U.S. Army, December 1995; EIR for the Sand City North of Playa Redevelopment Project, September 1995.

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**Procedural Note**

Section 13169(a)(1) of the Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act.

In this case, the extension request is being reported to the Commission because the Executive Director has determined that there are changed circumstances affecting the project's consistency with the Coastal Act. Section 13169(a)(2) of the Commission's regulations provide that if three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.



**California Coastal Commission**  
**September 15, 1999 Meeting in Eureka**

Staff: S. Monowitz    Approved by:

A-3-SNC-94-008-E2 (Sterling Extension) Staff Report for September 1999 Hearing.doc (8/25/99)

## Executive Summary

This is the second proposal to extend Coastal Development Permit A-3-SNC-94-008 for a resort project in Sand City known as the Sterling Center, located on a disturbed site west of Highway one and immediately north of Tioga Avenue. The project approved by the Commission in 1994 was a 136-unit hotel with restaurant and conference facilities, the development of which is subject to conditions that, among other things, require a redesign of the project to address height and setback issues.

A one-year extension of this permit was previously granted in April 1998. Since that time, Commission staff has had meetings with City staff and developers interested in constructing the project. Both the City and the applicant are interested in moving forward with the project, and while progress towards complying with the conditions of the permit has been made, the conditions remain to be satisfied.

The standard of review for a permit extension request, established by Section 13169 of the Commission's Administrative Regulations, is whether there are changed circumstances that affect the project's consistency with the California Coastal Act. By virtue of the fact that Sand City has a certified Local Coastal Program (LCP), this standard requires an assessment of any changed circumstances regarding project compliance with the LCP. In addition, because the project is located between the first public road and the sea, any changed circumstances with respect to Coastal Act public access and recreation policies must also be considered. If the Commission determines that there are changed circumstances regarding the project's conformance with these standards, the application must be set for a full hearing as if it were a new application.

Staff recommends that the Commission deny the extension request, and set the application for a De Novo hearing, based on the Executive Director's determination that there are changed circumstances affecting the project's consistency with the Sand City certified LCP and the public access and recreation policies of the Coastal Act. These circumstances include:

- changes in the status of environmentally sensitive habitats surrounding the project site (e.g., Federal listing of the Western snowy plover as a threatened species) and the evolution of habitat protection and management principals applicable to the implementation of LCP habitat protection standards;
- reductions in the availability of water available to serve the project;
- increased growth in the project vicinity (e.g., construction of the Edgewater shopping center, reuse of Fort Ord) that has adversely impacted roadway capacities necessary to serve the project and accommodate coastal access and recreation; and,
- changes in the ownership and land use planning status of the area (e.g., acquisition of the adjacent site by the Sand City Redevelopment Agency, proposed development and implementation of a Habitat Conservation Plan for all areas of the City west of Highway One, designation of the Monterey Bay State Seashore).



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## Exhibits

Exhibit 1: Regional Location

Exhibit 2: Site location

Exhibit 3: Correspondence

## Appendix A

Adopted staff report for A-3-SNC-94-008



## 1. Staff Recommendation

Staff recommends that the Commission **DENY** the permit extension request by concurring with the Executive Director's determination that there are changed circumstances affecting the development's consistency with the Coastal Act and adopting the following motion.

### **MOTION**

*I move that the Commission grant a one-year extension to Coastal Development Permit A-3-SNC-94-008 because there are no changed circumstances that affect the project's consistency with the Coastal Act.*

Staff recommends a **NO** vote. Pursuant to Section 13169 of Title 14 of the California Code of Regulations, three Commissioners must object to the extension of the permit in order to deny the extension request and require rescheduling of the application as if it were a new application.

## 2. Recommended Findings and Declarations

The Commission finds and declares as follows:

### A. Project Background, Description, & Location

The Sterling Center project has a long history with the Commission, beginning with the denial of a larger 229-unit City approved project on the site in 1986, a decision that was upheld by the Superior Court on March 16, 1987 (*Sand City vs. California Coastal Commission*, Case No. M 16952). The City subsequently approved a smaller 136-unit project in 1989, which was also appealed to the Commission. However, the City's approval was nullified before the Commission acted on the appeal, due to a lawsuit challenging the City approval's compliance with the California Environmental Quality Act. After complying with the Court Order, the City approved a similar project in November 1990, which again was appealed to the Commission. After the Commission approved the project with Special Conditions in April 1991, the Superior Court of Monterey County issued a Minute Order Ruling on Return Peremptory Writ of Mandamus, finding that the Supplemental Environmental Impact Report (SEIR) prepared in response to Case M 16952 was not properly circulated, and did not adequately address comments submitted in response to the draft SEIR. The City responded to this Order with an updated environmental document in July 1993, then re-approved the project.

On June 9, 1994, the Commission heard the appeal of the Sterling Center project approved by the City in 1993, which was basically the same project previously reviewed by the Commission in 1991 and which included a 136-unit hotel/resort with a 135 seat restaurant and bar; an on-site desalination and water treatment facility; 4000 square feet of conference and retail space; 234 car subterranean garage; an extension of Sand Dunes Drive; public access improvements; and, dune restoration. The Commission approved the project with special conditions that required, among other things, an increase in setback distances; reductions in the height of the proposed structures and the length of the proposed roadway extension; grading and dune stabilization and restoration plans; and, a sand replenishment program. The conditions of Commission approval also required the applicant to eliminate the proposed desalination



plant from final project plans, and provide evidence that an alternative water source is available to serve the project. The conditions provide that should the applicant demonstrate that no alternative water source is available, then the proposed desalination plant must be reviewed by the Commission either as an amendment to the permit or through a separate permit application. The adopted staff report for the Commission's approval is attached to this report as Appendix A.

The project is located at 500 Tioga Avenue, on the west side of Highway One (please see Exhibit 1). Tioga Avenue provides an overpass above Highway One, connecting the inland portion of the City to the largely undeveloped western dune area. The 7.9-acre project site is bordered by Tioga Avenue to the South, the Pacific Ocean to the west, three parcels owned by the Sand City Redevelopment Agency and proposed for future development to the north, and Highway One to the east.

## B. Changed Circumstances

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### 1. Environmentally Sensitive Habitats

#### Applicable Standards

LCP Policy 3.3.1 provides:

Visitor-serving and public recreational uses are given priority west of State Highway One, as designated in the Land Use Plan Map in Section 6.0. *Development of these uses shall be consistent with the protection of natural and visual resources* [emphasis added].

LCP Policy 4.3.21 states:

Protect environmentally sensitive habitat areas by developing and implementing standards for development (including vegetation removal, excavation, grading, filling and the construction of roads and structures). Standards should include, but may not be limited to:

- a) encourage retention of open space through deed restrictions or conservation easements;
- b) restrict land disturbance and the removal of indigenous plants to the minimum amount necessary for structural improvements;
- c) require incorporation of appropriate mitigation measures such as setbacks, buffer strips, landscape plans, drainage control plans and restoration;
- d) where appropriate and feasible, allow the exchange of existing resource areas for other open space areas that would provide a more logical location for open space and that could be planted with those species found in the resource area; and
- e) require landscaping with native coastal plants in development proposals.

LCP Policy 4.3.20 requires, in relevant part, that environmentally sensitive habitat areas be protected as



follows:

- e) New uses proposed adjacent to locations of known environmentally sensitive habitats shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such areas.

### Project Impacts and Mitigation Measures

It is recognized that the Sterling site is a highly degraded in terms of habitat, by virtue of previous sand mining activities, and the fact that a large portion of the site is currently paved and used for temporary storage of construction equipment. In fact, environmentally sensitive habitat issues did not appear to play a significant role in the Commission's 1994 consideration of the project; there were no findings regarding this issue contained in the adopted staff report (attached as Appendix A).

Notwithstanding the disturbed condition of the site, it represents restorable dune habitat (especially in the northern portion of the site that is currently undeveloped open space) that may be an important component to region wide habitat protection and enhancement. Moreover, the relationship of the project site to adjacent sensitive dune habitats and the overall Monterey Bay Dune System is an important consideration in determining the project's consistency with the above referenced policies. For example, sensitive dune species such as the Western snowy plover, Smith's blue butterfly, and Black legless lizard are known to exist within the dune areas in close proximity to the project, and may be adversely affected by increased use of the dunes by project guests.

### Analysis of Changed Circumstances

New information regarding the sensitivity and rareness of Monterey dune habitats and the biological resources dependent upon such habitat, as well as the management strategies necessary to protect and enhance such resources, warrants reconsideration of the project's compliance with LCP policies protecting environmentally sensitive habitats. Since the approval of the Sterling project, an understanding of these changed circumstances has contributed to the Commission's (and other resource agencies') evolving approach to sensitive habitat protection.

The western snowy plover was listed as federally threatened on April 5, 1993. While this listing occurred prior to the City and Commission's approval of the project, the measures necessary to effectively protect this species and facilitate its recovery, had yet to fully understood. Only recently has it been recognized, as a result of various efforts to protect this resource (including those that have been undertaken by the Department of Parks and Recreation in nearby dune areas), that effective protection of the Snowy plover is dependent not only upon addressing site specific issues, but in managing off-site impacts to adjacent habitat areas as well (see below for more detail).

The implications of introducing numerous new visitors to the area, and the impacts that this will have on adjacent dune habitats that provide nesting areas for the Western snowy plover, were not considered during the original review of the Sterling project. No provisions for managing the use of beach and dune areas generated by the Sterling project, in manner that addresses the habitat needs of the Western snowy plover, are included as part of the approved project or required by the current coastal development permit. As a result, the current project currently may not comply with LCP requirements calling for new



development to protect natural resources and allow for the continuance of adjacent sensitive habitats (LCP Policies 3.3.1 and 4.3.20). Nor does the project, as previously approved, include standards necessary to protect other sensitive habitat values of adjacent dune areas, including those that support other rare plants and animals endemic to the region. Thus, the requirements of LCP Policy 4.3.21 may not been satisfied either by the project or the conditions of the existing permit.

As noted above, new information and environmental data regarding the unique and threatened nature of the Monterey Dune system has become available since the 1994 approval that has led to an evolution in sensitive dune habitat management and protection principals. In essence, this information has led to the recognition that effective habitat protection and preservation necessitates a system wide approach. As applied to the Monterey Dune System, this evolving approach to habitat protection involves the understanding that previously degraded areas of the dunes represent restorable habitat that play an important role in the long term biological continuance of dune resources.

As detailed in the recent staff report on the proposed Monterey Bay Shores Resort project (Coastal Development Permit Application No. A-3-SNC-98-114), the Monterey Bay dune complex is one of the largest remaining coastal dune fields in California. However, less than half of the dune field has survived urbanization, conversion to military or agricultural uses, sand mining, and shoreline erosion.

Since 1994, the potential to restore and enhance the dune's unique biological resource values in degraded areas has become well recognized. Several major dune restoration programs have recently been undertaken in the vicinity of Sand City. For example, following the approval of the Sterling project, a significant restoration effort took place on a former dump site that was acquired and remediated by the Monterey Peninsula Regional Park District. Also following the approval of the Sterling Center, State Parks has developed plans to protect and restore 700 acres of dune habitat on the nearby dunes of the former Fort Ord.

One of the most critical functions of the dune system is its role as habitat for a very unique flora and fauna. These are species that are specially adapted to the conditions and opportunities found in the dunes. Dune plants in particular play a special role by both stabilizing the dunes from the effects of wind erosion, and hosting rare fauna. However, evolving scientific information and resource data shows that as the natural dune system has been reduced and fragmented, the risk of extinction has increased for several species. This has led to the recognition that each new impact within the dunes system contributes to the cumulative decline of these species.

Specifically, several native plants known to occur in the dunes are either already listed, or are on the candidate list for the federal register of endangered and threatened species. These include the Seaside bird's beak (*Cordulanthus rigidus littoralis*), sand gilia (*Gilia tenuiflora arenaria*), Sandmat manzanita (*Arctostaphylos pumila*), Eastwood's ericameria (*Ericameria fasciculata*), coast wallflower (*Erysimum ammophilum*), Menzies wallflower (*Erysimum menziesii*) and Monterey ceanothus (*Ceanothus rigidus*). The Seaside bird's beak is protected under the California Plant Protection Act of 1977. All seven species are recognized as rare by the California Native Plant Society. The sand gilia is both state-listed and federal-listed. Another sand-stabilizing plant species, the Monterey spineflower (*Chorizanthe pungens*



*var. pungens*), is also found in the Monterey Bay dunes, and has been listed in the Federal Register as an endangered species (U.S. Fish & Wildlife Service notice of February 14, 1994).

As previously noted, the U.S. Fish & Wildlife Service listed the Western snowy plover as a threatened species on April 5, 1993. These birds forage along the shoreline and nest in the foredunes of the Flandrian system. The plovers are known to nest in various areas of the dunes, and have been the focus of significant conservation efforts by the State Dept. of Parks and Recreation. According to staff of the U.S. Fish and Wildlife Service, it is expected that the dunes within Sand City will provide important breeding habitat as the species recovers.

Another species of concern existing within the dune system is the Smith's blue butterfly (*Euphilotes enoptes smithi*), a federally protected animal species listed as endangered by the U.S. Fish and Wildlife Service. Coast buckwheat (*Eriogonum parvifolium* and *E. latifolium*), are host plants to the Smith's blue butterfly, and occur in clusters that support localized populations of the butterfly. The black legless lizard (*Anniella pulchra nigra*), another native species of the Monterey Bay dunes, has previously been a candidate for federal listing as endangered, and is considered a Species of Concern by the California Department of Fish & Game because of its limited distribution.

While the distribution of these dune plants and animals may appear sparse to the uninitiated, over time they can collectively be expected to utilize the entire available dune surface. This is because the Flandrian component of the dunes complex is a dynamic system. The dunes present a rather harsh and difficult growing environment, where the wind keeps shifting the shape of the ground, rainfall rapidly percolates out of reach, and, lacking a distinct topsoil horizon, nutrients are quickly exhausted. Thus, a plant like Monterey spineflower may over a year or two use up the available moisture and nutrients at a particular site, and by means of wind-blown seed “move” to a neighboring area. In this simplified model, the original site remains a bare sand surface until life’s necessities again accumulate at the original site—thereby allowing recolonization and repeating of the cycle. Therefore, the overall growing area (“habitat”) needed over the long run is vastly larger than the area occupied by the plants at any one “snapshot” in time. This also helps explain why the entire dune surface—not just the locations where the plants (and animals) are found in any one particular year—must be considered environmentally sensitive habitat.

The recognition that previously degraded areas of the dune system constitute sensitive habitat was initially applied by the Commission in 1994, when it considered residential developments proposed in the City of Monterey’s Del Monte Dunes area (Coastal Development Permit No.’s 3-93-62 Sewald, 3-93-63 Boyden, and 3-93-28 Bram), and has been expanded upon in subsequent years. The premise that even disturbed areas of the dunes represent sensitive habitats, and that such areas play an important role in regional efforts to protect and enhance the unique resources of the Monterey Bay Dune System, was not taken into account in the previous approval of the Sterling project. As a result, no mitigation was provided for the permanent loss of restorable dune area that would result from project construction. Therefore, the coastal development permit for the Sterling project does not acknowledge current scientific recommendations with respect to the preservation of dune habitat, and therefore may not implement the sensitive habitat protection standards embodied by LCP Policies 3.3.1, 4.3.20 and 4.3.21.





Finally, in light of the above circumstances, it has become evident that a City-wide, or preferably a region-wide approach, is needed to address the sensitive dune habitat resources within the project's vicinity. Towards this end, the City has recently initiated a Habitat Conservation Plan (HCP) to address this and other sensitive dune species, which will be subject to the review and approval of the U.S. Fish and Wildlife Service. Clearly, the Sterling site is an important component to this habitat management effort, as it is in the center of the habitat area that will be addressed by the City's HCP. Specific habitat management and protection measures determined through the HCP process will need to be incorporated into the project in order to ensure compliance with LCP sensitive habitat protection policies. Significantly, another desired outcome of the HCP process is the *identification of acceptable locations and intensities of development* throughout the Sand City coastal zone west of Highway One that will allow for the biological continuance of sensitive dune species. Thus, extending the coastal development permit for the Sterling project may directly prejudice opportunities to consider, via the current HCP process, the full range of land use alternatives that are most protective of sensitive dune habitats.

## Conclusion

New information regarding the rarity of dune resources such as the Western snowy plover, and improved understanding of dune ecology, has resulted in changed circumstances that must be considered before it can be concluded that the Sterling project complies with Sand City LCP requirements regarding environmentally sensitive habitats. Furthermore, the Habitat Conservation Plan currently being developed by the City provides a new opportunity to assess the full range of land use alternatives that will best address habitat protection needs and enhancement opportunities within the Sand City coastal zone. Extension of the previously approved Sterling permit may prejudice this opportunity, in conflict with the habitat protection and enhancement objectives of the certified LCP.

## 2. Water Supply

### Applicable Standards

LCP Policy 6.4.11 requires:

New development shall be approved only where water and sewer services are available and adequate; and where adequate circulation and parking has been provided for.

LCP Policy 6.4.13 states:

Within the Coastal Zone, permit only new development whose demand for water use is consistent with the available water supply and the water allocation presented in Appendix F<sup>1</sup>.

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<sup>1</sup> Appendix F reflects the method by which the City will distribute water within the allocation program established by the Monterey Peninsula Water Management District, and identifies an allocation of 15.37 acre-feet per year for the Sterling site.



## Project Water Demand and Supply

As approved by the City, the Sterling project was estimated to consume 19.91 acre-feet of water per year at 100% occupancy, and 16.92 acre-feet at 75% occupancy. Because this exceeded the LCP's allocation, the applicant proposed to construct a desalination facility capable of generating 20 acre-feet of water per year. The Commission's approval, however, did not include the desalination facility based on concerns regarding the impact to marine resources and the fragmentation of public works facilities. The desalination facility was also eliminated from the project approved by the Commission because, according to the Monterey Peninsula Water Management District, 47.2 acre feet of new water allocation was available to the City (please refer to page 20 of the adopted staff report, attached as Appendix A). The Commission therefore required the applicant to submit evidence that an alternative water source is available to serve the project prior to issuance of the Coastal Development Permit. If the applicant can demonstrate that an alternative water source is not available, the Commission's approval provides that a desalination plant may be considered in the form of an amendment to the permit, or as a separate CDP.

## Analysis of Changed Circumstances

The Commission's 1994 approval, which eliminated the proposed desalination plant, addressed the LCP's requirement for adequate water by finding that 47 acre-feet of new water was available from the Monterey Peninsula Water Management District (MPWMD) and could be used to serve the project. The Commission also required, as a condition of approval, that the applicant provide evidence of an adequate source of water (other than the desalination plant), prior to the transmittal of the Coastal development Permit.

As opposed to the water situation in 1994, there does not appear to be enough water currently available to serve the project from the allocation provided to Sand City by MPWMD. However, the City has indicated that a major industrial water user within the City will be ceasing its operations, freeing up 27 acre-feet of water per year from the City's allocation that could be used to serve the project.

Notwithstanding this *potential* source of water, evidence of adequate water, as required by LCP Policy 6.4.11, has yet to be provided. Since 1994, the critical shortage of water available to support new development in the Monterey Peninsula has become more and more evident. For example, issues related to salt water intrusion, impacts of water withdrawals on riparian habitats, controversy surrounding the proposal to construct a new dam along the Carmel River, and other watershed management issues, have recently been brought to the forefront of land use planning constraints within the Monterey area, and remained to be resolved. Heightened concerns regarding the adequacy of the region's water supply has led to the need for specific evidence that water is available to serve new development, in a manner that will not adversely affect natural resources or other uses, prior to the approval of the new development. The Sterling project has not provided such evidence, and therefore may not be consistent with LCP Policies 6.4.11 and 6.4.13.

## Conclusion

As detailed above, there exist changed circumstances regarding the availability of water necessary to serve the previously approved Sterling project. The 47 acre-feet expected to be available to serve the project in 1994 has already been used to serve other projects in the City, and/or is no longer available.



Thus, in combination with new information that has been generated since 1994 regarding the critical status of water in the Monterey area, the lack of specific evidence that there is water available to serve the project represents a changed circumstance that may result in project inconsistencies with LCP Policies 6.4.11 and 6.4.13.

### 3. Public Access and Recreation

#### Applicable Standards

LCP Policy 6.4.11:

New development shall be approved only where water and sewer services are available and adequate; and where *adequate circulation* and parking has been provided for (emphasis added).

LCP Policy 6.4.23.a:

Development within the Coastal Zone shall insure public safety by providing for:

a) adequate ingress and egress for emergency vehicles

LCP Policy 6.4.24:

Require future development in the Coastal Zone area to provide safe adequate streets, parking and loading.

Coastal Act Section 30252:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

#### Traffic Generation and Mitigation Measures

As stated in the October 1988 Draft Supplemental Impact Report for the Sterling Center, the project would generate 1,180 vehicle trips per day. Based on average daily traffic and corresponding Levels of Service in the project area, which ranged from A to C in 1988, the project was not expected to have a significant impact on traffic. However, in order to address regional traffic issues and cumulative impacts, the City required the applicant to contribute no less than \$120,000 towards regional traffic improvements.



Cumulative development within Sand City that was considered in this assessment included the regional commercial center on the east side of Highway One constructed in 1996 and known as the Edgewater Shopping Center; a proposed 211 unit visitor-serving/residential housing development known as the Monterey Bay Village that has not been, and remains unlikely to be constructed; and, the proposed Sands of Monterey, a 560-unit resort previously proposed on the same site as the 495-unit Monterey Bay Shores Resort project recently approved by City, an appeal of which is currently pending with the Commission. The cumulative impact assessment did not consider the additional traffic expected to be generated through the reuse of the former Fort Ord, which, according to the December 1995 Draft Supplemental Environmental Impact Report prepared by the Army to address Fort Ord Reuse Authority's Reuse Plan, may add up to 223,278 vehicle trips per day to local roadways (Draft SEIS, p 5-25).

### Analysis of Changed Circumstances

Changes in the transportation network within the vicinity of the Sterling project that have occurred since the 1994 approval include diminished levels of service, and significant increases in the anticipated future demands associated with the reuse of Fort Ord. Table 1 shows the increase in average daily traffic along Highway One in the vicinity of the project that have occurred since the traffic impacts of the project were last assessed (1988), while Table 2 shows the resultant reduction in Levels of Service (definitions for the various Levels of Service are provided as footnotes on page 14 of this report). As shown in Table 1, the 48,000 Average Daily Trip figure for the portion of Highway One between Fremont Boulevard and Highway 218 applied in the environmental analysis of the Sterling project has increased to approximately 68,000. Similarly, the 1988 Levels of Service for this section of Highway diminished from LOS C in 1988 to LOS D and E (or worse) during peak commute hours in 1998.

Increased pressures on the transportation network associated with the civilian redevelopment of the former Fort Ord, which were not anticipated in the 1994 approval, will further reduce roadway capacities necessary to serve the project and accommodate coastal access and recreation. As previously noted, the Army's 1995 Draft SEIS states that the Fort Ord Reuse Plan, under buildout, may add up to 223,278 vehicle trips per day to local roadways. A large percentage of these additional trips can be expected to involve Highway One. The May 1996 Draft EIR prepared by the Fort Ord Reuse Authority provides some more specific information regarding the impacts of reuse on traffic and circulation, estimating that in the year 2015, Daily Volumes along Highway One between Fremont Boulevard and Highway 218 could range between 75,000 and 89,000.

**Table 1: Changes in Average Daily Trips**

Year	Location	Average Daily Trips	Source
1988	Highway One between Fremont Boulevard and Highway 21	48,000	1988 DSEIR for the Sterling Ceneter
1993	Highway One at 218 Interchange (project exit)	60,000 annually; 64,000 peak month	Caltrans 1993 traffic volume data



1997	Highway One at 218 interchange	68,000 annually; 72,000 peak month	Caltrans 1997 traffic volume data
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**Table 2: Changes in Levels of Service**

Year	Location	Level of Service	Source
1988	Highway One between Fremont Boulevard and Highway 218	LOS C	1988 SDEIR for the Sterling Center
1994	Highway One at 218 interchange	LOS D	EIR for the Edgewater Shopping Center
1998	Highway One, between the Highway 218 interchange and the Fremont boulevard interchange	LOS E in the southbound direction during the morning peak traffic hour <sup>2</sup> , and a LOS D in the northbound direction during the evening peak traffic hour.	EIR for the Monterey Bay Shores Resort Project

Traffic in Sand City, especially along Highway One, has recently approached the critical stage, and as a result has adversely impacted the ability of the public to access the beach. While the Sterling project may not necessarily change existing levels of service, there is clearly a question concerning whether existing roadways are adequate to serve the project and maintain coastal access and recreation opportunities. Following are additional facts reflective of this problem, obtained from the EIR for the Monterey Bay Shores Project:

- The intersections of Fremont Boulevard and the Highway One northbound on-ramp and southbound off-ramp currently operate at a Level Of Service (LOS) of D<sup>3</sup> during both morning and evening peak traffic hours. Caltrans comments on the Draft EIR for the Monterey Bay Shores Project states that the intersections of Fremont Boulevard and the Highway One northbound on-ramp and the south bound off-ramp are currently operating at LOS F<sup>4</sup> during peak periods.

<sup>2</sup> Caltrans questioned the Draft EIR's identification of LOS E for Highway One between Fremont Boulevard and the interchange with Highway 218, based on their observation that southbound traffic regularly backs up from north of Fremont Boulevard to south of Highway 218.

<sup>3</sup> Defined on page 166 of the Final EIR as "Approaching unstable traffic flow where small increases in volume could cause substantial delays. Freedom to maneuver within the traffic stream is noticeably limited. Comfort and convenience are low and minor incidents can be expected to create queing."

<sup>4</sup> Defined on page 166 of the Final EIR as "Forced flow operations. Speeds are reduced substantially and stopages may occur for short or long periods of time because of downstream congestion."



- The intersections of Fremont Boulevard and Military Avenue and Del Monte Boulevard currently operate at LOS E<sup>5</sup> both during the morning and evening peak traffic hours.
- The intersection of Fremont Boulevard and Playa Avenue currently operate at LOS D during both morning and evening peak traffic hours.

A major contributor to the traffic problem has been the Edgewater Shopping Center, constructed in 1996. Again, according to the Monterey Bay Shores EIR, traffic conditions are expected to get worse as the Edgewater Shopping Center reaches full occupancy:

- The intersections of Fremont Boulevard with the Highway One northbound on-ramp and southbound off-ramp will degrade from an existing LOS D to LOS E in the morning peak traffic hour.
- The intersections of Fremont Boulevard, Military Avenue, and Del Monte Avenue will degrade from an existing LOS E to LOS F during both the morning and evening peak traffic hours.
- The Fremont Boulevard and Playa Avenue intersections will degrade from LOS D to LOS E in the peak morning hour, and from LOS D to LOS F in the peak evening hour.

The Edgewater Shopping Center was approved by Sand City in 1996, and was constructed soon after. In order to address cumulative traffic impacts resulting from this and other projects in the region (e.g., Fort Ord conversion), Sand City entered into an agreement with Caltrans to conduct and fund a “Project Study Report” (PSR), to be reviewed and approved by Caltrans. The purpose of this study is to address appropriate mitigation for the traffic impacts of cumulative development. The PSR covers the area of Highway One between the 218 intersection (the intersections that will be most used by this project) and the Fort Ord Main gate. It is anticipated that the financial contribution for regional transportation improvements required for the Sterling project will be applied towards the roadway projects identified by the PSR.

The PSR, which has yet to be approved by Caltrans, was released in June, 1999. The preferred alternative presented by the draft EIR includes, but is not limited to, the following components:

- Construction of a new Highway One “diamond” interchange between Fremont Boulevard and the Fort Ord Main Gate. This involves the development of a new two lane structure over Highway One, with new on- and off-ramps on the west and east sides of the freeways (4 new ramps).

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<sup>5</sup> Defined on Page 166 of the Final EIR as “Operations characterized by high density with little room to maneuver within the traffic stream at speeds that still exceed 50 mph. Any disruption to the traffic stream, such as vehicles changing lanes or entering from ramps, can cause a disrupted wave that propagates throughout the upstream traffic flow and produces serious breakdowns with extensive queuing.”



- Widening Highway One from to a six-lane facility with 3 thru lanes in each direction between Highway 218 and the Fort Ord Main Entrance. (The majority of this expansion can be accommodated within the existing Highway median.)
- Widening the existing Fremont Blvd. Highway One southbound on-ramp to two lanes.
- Widening California Avenue to three lanes, extending it into the Monterey Bay Shores Resort project, and modifying its intersections with Highway One ramps.
- Revisions to Old Monterey Road, Monterey Road, Del Monte Boulevard, and Military Avenue where they intersect with Fremont Avenue.
- Adding a new lane to the existing Highway One northbound on-ramp at Fremont boulevard, and adding a new two lane on ramp from California Avenue that will merge with the Fremont on-ramp.

The above projects have potential impacts on coastal resources, including environmentally sensitive habitats and visual resources, which have yet to be evaluated, and will need to be considered during the required Coastal Development Permit review(s). It is also important to note that the Draft PSR is subject to the review and approval of Caltrans. There is the potential that additional improvements, beyond what is currently proposed by the preferred alternative, will be deemed to be necessary to adequately address current and future circulation needs.

In consideration of the above factors, the following traffic circumstances appear to have changed since the Sterling project was approved in 1994:

- There has been an increase of approximately 10,000 average daily trips along the section of Highway One that will be most affected by the project;
- A reuse plan for Fort Ord has been adopted which could add an additional 223,278 vehicle trips per day to existing traffic volumes in the region upon build-out;
- Levels of Service along Highway One have degraded from LOS C to a LOS E or F in the southbound direction during the morning peak traffic hour;
- Local roadways have been significantly impacted by the Edgewater Shopping Center, and are expected to degrade to LOS E and F in certain areas upon build-out of the shopping center; and
- A project study report has been developed in an attempt to address long-term regional transportation needs, that poses impacts to coastal resources that have yet to be resolved and has yet to be approved by Caltrans as adequately addressing transportation needs.

## Conclusion



The Sterling project represents one of many projects that, together, will have a cumulative adverse impact on Highway One traffic, and thus, coastal access and recreation. The approval granted in 1994 relied upon a project contribution of \$120,000 to regional transportation improvements. However, the adequacy of this contribution, in light of the increases in traffic that have occurred since 1994, needs to be reconsidered before the project can be found to be consistent with LCP Policy 6.4.11. Furthermore, the details of the necessary transportation improvements which this contribution will be applied towards, and the impacts they pose to coastal resources, have yet to be resolved. As a result, it can not be concluded that the project is currently consistent with the LCP and Coastal Act standards identified above.

#### 4. Land Use

##### Applicable Policies

LCP Policy 6.4.10 states, in relevant part:

Lot consolidation for residential, visitor-serving residential and commercial uses will be encouraged in areas where small lots may prohibit planned uses through the requirement of a specific plan for development. *Furthermore, planned clustered development will be encouraged in the coastal zone.* Future small lot subdivisions for residential and commercial uses will be prohibited. [Emphasis added.]

Coastal Act Section 30240(b) states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

##### Project Relationship to Other Land Uses

The Sterling project is one of the 4 large parcels that make up most of the 80 acres of the Sand City coastal zone west of Highway One and North of Tioga Avenue. The Sand City Redevelopment Agency has acquired the three large lots north of the Sterling parcel, known as the McDonald site, and intends to pursue development of the site in the future. North of McDonald is an old garbage dump that has been acquired, remediated, and restored by the Monterey Peninsula Regional Park District, followed by the site of the proposed Monterey Bay Shores project, the northernmost parcel in the City's coastal zone. The area south of Tioga Avenue is comprised of much smaller lots, many of which have been acquired by the Department of Parks and Recreation and the Monterey Peninsula Regional Park District. It is expected that the remainder of the privately owned lots south of Tioga will also be acquired by the park agencies, and developed as public park and open space.

In addition to the land use regulations established by the Sand City LCP, future development west of Highway One is also limited by a Memorandum of Understanding (MOU) between Sand City, the Department of Parks and Recreation, and the Monterey Peninsula Regional Park District. According to this MOU, the three potential envelopes for the development of uses other than parks and open space





include the Sterling site, the McDonald site, and the site of the proposed Monterey Bay Shores Resort.

With respect to regional land use issues, the Sterling site, and the area of the City west of Highway One, are components of the Monterey Bay State Seashore, designated in 1994, which extends from Natural Bridges State Beach in Santa Cruz County to Point Joe in Monterey County. The Monterey Bay dune system, within the Monterey Bay State Seashore, extends from the Salinas River National Wildlife Refuge in North Monterey County to Monterey Harbor in the City of Monterey, and is one of the few remaining dune habitat systems in California.

### Analysis of Changed Circumstances

Since the Sterling Center was approved in 1994, significant changes in both local and regional land use issues have occurred. One of these changes has been the acquisition of the McDonald property north of the Sterling site by the Sand City Redevelopment Agency, which occurred in January 1995. Although no development proposals for this site have been submitted to date, the City has been working with a private developer on conceptual plans for future development including options for combining development with that approved on the Sterling site. The significance of this acquisition is that it provides an opportunity for future development of the Sterling site and the McDonald site to be consolidated in a manner that would minimize impacts on coastal resources, including dune habitats and scenic resources. LCP Policy 6.4.10 encourages such clustered development.

In terms of city-wide land use issues, the City's recent initiation of consultations with the U.S. Fish and Wildlife Service, and the associated development of a Habitat Conservation Plan for the entire area of the City west of Highway One, represents another changed circumstance. As previously discussed in the environmentally sensitive habitat findings of this report, there have been changes in the status of sensitive species with habitat in the vicinity of the Sterling project, and the habitat management and protection principals applied to the protection of such resources have evolved since the Sterling project was approved in 1994. As a consequence of these changes, it is clear that the extension of the Sterling permit may not only conflict with LCP habitat protection policies cited on pages 5-6 of this report, but may also jeopardize consideration of the full range of development alternatives that is most protective of such resources during the Habitat Conservation Planning process.

Regionally, the designation of the Monterey Bay State Seashore in September 1994 reflects the increased importance that the State of California has placed on the preservation of the outstanding natural, scenic and recreational values of this open space shoreline area. Public Resources Code Section 5019.62 describes the purpose and intended use of state seashores as follows:

The purpose of state seashores shall be to preserve outstanding natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values and which contribute to the public enjoyment, appreciation, and understanding of those values.

Improvements undertaken within state seashores shall be for the purpose of



making the areas available for public enjoyment, recreation, and education in a manner consistent with the perpetuation of their natural, scenic, cultural, ecological, and recreational value. Improvements which do not directly enhance the public enjoyment of the natural, scenic, cultural, ecological, or recreational values of the seashore, or which are attractions in themselves, shall not be undertaken.

Because the designation of the State Seashore did not occur until September 1994, the relationship of the Sterling project to the State Seashore was not considered in the Commission's June 1994 approval of the project. An analysis of this relationship is necessary to determine the project's compliance with LCP and Coastal Act requirements regarding public access and recreation, as well as with those LCP policies protecting scenic coastal views from public areas.

### Conclusion

Significant changes in the ownership and land use planning status of the area have occurred since the Sterling project was originally approved by the Commission in 1994, and affects the project's consistency with LCP and Coastal Act policies. The acquisition of the adjacent McDonald site by the Sand City Redevelopment Agency in 1995 provides a new opportunity to consider clustered development, as encouraged by LCP Policy 6.4.10. The recent initiation of the city-wide Habitat Conservation Plan, and the importance of this plan in addressing the sensitive habitat issues that have evolved since the project was approved, necessitates reconsideration of the project's consistency with LCP habitat protection policies. Finally, the compatibility of the project to the Monterey Bay State Seashore designated in September 1994, particularly in terms of protecting coastal recreation opportunities and visual resources, must be analyzed before it can be determined that the project conforms with the Sand City LCP and Coastal Act Section 30240(b).

